

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

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IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
FRANCIS J. KOEHLER, R.N.,	:	LS0906043NUR
RESPONDENT.	:	

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[Division of Enforcement Case # 08 NUR 337]

The parties to this action for the purposes of Wis. Stat. § 227.53 are:

Francis J. Koehler, R.N.  
W5225 White Birch Road  
Shawano, WI 54166

Division of Enforcement  
Department of Regulation and Licensing  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

Wisconsin Board of Nursing  
Department of Regulation and Licensing  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

PROCEDURAL HISTORY

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Board of Nursing. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Francis J. Koehler, R.N., Respondent, date of birth June 8, 1948, is licensed by the Wisconsin Board of Nursing as a registered nurse in the state of Wisconsin pursuant to license number 106584, which was first granted March 21, 1991.
2. Respondent's address of record with the Department of Regulation and Licensing is W5225 White Birch Road, Shawano, WI 54166.
3. At all times relevant to this matter, Respondent was employed as a registered nurse in the Health Services Unit (HSU) at the Outagamie County Jail in Appleton, Wisconsin.
4. On January 8, 2008, Respondent saw Inmate CH due to the inmate's complaints of chest pains, sweating, shivering, nausea and diarrhea—mainly after drinking milk, headaches, feeling cold all the time, and loss of energy. Respondent also learned that CH weighed 141 pounds, a loss of 24 pounds since the previous February. CH did not have a fever.
5. Respondent was aware that CH was taking Depakote for a mental illness and Darvocet N-100 for chronic fibromyalgia. CH also had a history of asthma, scoliosis, herpes and chemical dependency issues. CH's vitals were stable, and his blood pressure was 104/60. For much of the previous year, CH had work-release privileges and during that time,

he saw his personal physician. CH rarely asked to see the nurse and there is no evidence that, during the dates relevant to this matter, he was malingering or otherwise seeking medical treatment inappropriately.

6. Respondent ordered lab tests including a Depakote level, CBC, liver panel and basic metabolic panel. Respondent saw CH on January 9, 2008, with the results of the lab tests. Respondent started CH on over the counter multivitamins with iron, and a trial of Lactaid to determine whether or not the nausea and diarrhea were caused by lactose intolerance (inmates receive milk once each day). If CH's weight continued to decline, Respondent planned to consult with the physician and start a supplement; if CH did not show improvement, Respondent planned to refer him to the physician for additional consultation. Respondent told CH that the anemia might take up to a month to resolve. CH's Depakote level was within normal ranges. The liver panel CBO and BMP showed no urgent problems, however CH's Plt count was 125,000, slightly lower than the normal range of 150,000-300,000. Respondent forwarded the lab results for the jail physician's next visit, which was expected to be January 15, 2008.

7. On January 10, 2008, at approximately 5:45 p.m., a corrections officer put CH in a holding cell for observation. CH told officers he was concerned about his chest pains because he had an enlarged heart.

8. On January 11, 2008, at approximately 8:00 a.m., Respondent saw CH and noted that there were no signs of deterioration, just a cold. CH complained of cold symptoms, sinus pressure, chest pains, and trouble breathing (which Respondent determined was related to nasal congestion). Respondent prescribed Decorel.

9. On January 12, 2008, corrections officers moved CH to a holding cell on multiple occasions. When CH was brought to the holding cell the second time, Respondent, without assessing CH, said CH could be returned to his normal cell. Respondent explained that CH's symptoms were consistent with a bad cold and nothing more could be done. Respondent did not see CH on January 12, 2008, and after arranging CH's medications, left work for the day at 2:00 p.m.

10. On January 12, at 3:53 p.m., corrections staff called Respondent at home and reported that CH had been moved to the holding cell because he was having trouble breathing. The corrections sergeant asked whether CH's lungs were clear because "his wife is calling complaining every time he gets this he gets pneumonia and he's got an enlarged heart valve or some [thing]like that." Respondent stated:

Let me put it to you this way, I drew labs on him and everything else...four days ago okay? And other than the fact that he's a little bit anemic okay, which we put him on vitamins with iron and stuff for um...you know there's, there's nothing big going on with that guy at all other than he's got a cold you know so um...I got a note from him this morning okay? Turning around and telling me that he has a book in his possession on illnesses, and he was reading, and he's sure that he's got chronic bronchitis because the cilia aren't moving his sputum up like they're supposed to so he's reading something someplace that's giving him all these big ideas so...but he's not even running a fever so...

Respondent went on to acknowledge that CH felt bad, but related it to the same cold that a couple of the jail officers had during the same time period.

11. In response to the newly received information that CH was particularly susceptible to pneumonia, Respondent failed to make any inquiries concerning CH's condition, and did not address signs and symptoms of pneumonia.

12. On the morning of January 13, 2008, another inmate found CH pulseless and not breathing. An autopsy indicated the cause of death as influenza with superimposed bacterial pneumonia. Other findings included patchy pneumonia with intra-alveolar hemorrhage and edema, bilateral pleural effusions, marked pulmonary edema, tracheitis, bronchitis and briolitis, and bloody stomach liquid.

13. Respondent's performance fell below standards of the nursing profession when, on January 12, 2008, he failed to appropriately assess CH.

## CONCLUSIONS OF LAW

1. The Wisconsin Board of Nursing has jurisdiction over this matter pursuant to Wis. Stat. § 441.07 and has authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44(5).

2. Respondent, by engaging in the conduct set out above, has committed negligence as defined by Wis. Adm. Code § N 7.03(1)(c) and is subject to discipline pursuant to Wis. Stat. § 441.07(1)(c).

### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Respondent, Francis J. Koehler, R.N., is hereby REPRIMANDED for the above conduct.

2. Respondent's license is LIMITED as follows:

a. Within 180 days of the date of this Order, Respondent shall provide proof sufficient to the Board, or its designee, of Respondent's satisfactory completion of a total of six (6) hours of continuing education in the area of patient assessment, which course(s) shall first be approved by the Board, or its designee.

b. Upon Respondent providing proof sufficient to the Board, or its designee, that he has completed the education, the Board shall issue an Order removing this limitation of Respondent's license.

3. Respondent shall, within 90 days of the date of this Order, pay to the Department of Regulation and Licensing costs of this proceeding in the amount of \$1,336.00 pursuant to Wis. Stat. § 440.22(2).

4. Requests for approval, notification of completion of educational program(s) and payment shall be faxed, mailed or delivered to:

Department Monitor  
Department of Regulation and Licensing  
Division of Enforcement  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935  
Fax (608) 266-2264  
Telephone (608) 267-3817

5. In the event that Respondent fails to pay costs as ordered or fails to comply with the ordered continuing education, Respondent's license SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

6. This Order is effective on the date of its signing.

Wisconsin Board of Nursing

By: Marilyn Kaufmann  
A Member of the Board

6/4/09  
Date

STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

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IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
FRANCIS J. KOEHLER, R.N.,	:	LS _____ NUR
RESPONDENT.	:	

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[Division of Enforcement Case # 08 NUR 337]

It is hereby stipulated and agreed, by and between Francis J. Koehler, R.N., Respondent; and Sandra L. Nowack, attorney for the Complainant, Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending investigation of Respondent's licensure by the Division of Enforcement (file 08 NUR 337). Respondent consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Respondent understands that by signing this Stipulation, he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and any other provisions of state or federal law.

3. Respondent has been provided an opportunity to obtain advice of legal counsel prior to signing this Stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Board. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's Order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Administrative Law Judge for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Board ever assigned as a case advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent or his attorney, if any, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with the Board's deliberations on the Stipulation. Additionally, any such case advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

8. The Division of Enforcement joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

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Francis J. Koehler, R.N.  
Respondent  
W5225 White Birch Road  
Shawano, WI 54166

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Date

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Sandra L. Nowack  
Attorney for Complainant  
Division of Enforcement  
Department of Regulation and Licensing  
P.O. Box 8935  
Madison, WI 53708-8935

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Date